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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 GREGORY KIRBY,

14 Defendant.

No. 2:23-cr-00202-RFB-EJY

**Unopposed Motion to Correct Clerical Error in
Judgment (ECF No. 84)**

15 Pursuant to Federal Rule of Criminal Procedure 36, the Government respectfully moves¹
16 the Court to correct a clerical error in the Judgment in this case, ECF No. 84. Specifically, on
17 page 1, the Judgment correctly states that Kirby committed the offense of Conspiracy to Commit
18 an Offense Against the United States, however, it inadvertently lists the “Title & Section” of this
19 offense as “18: 317” instead of “18: 371.”

20 Federal Rule of Criminal Procedure 36 allows the Court to correct a clerical error in a
21 judgment at any time, so long as it has first provided appropriate notice. Accordingly, the
22 Government respectfully moves the Court to modify the judgment to correct this clerical error to
23 state “18: 371” in place of “18: 317.”

24 ¹ On February 11, 2025, undersigned counsel conferred with defense counsel Richard
Schonfeld, who stated the defense does not oppose this motion.

POINTS AND AUTHORITIES

Federal Rule of Criminal Procedure 36 allows the Court to correct a clerical error in a judgment or other portion of the record:

After giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.

Fed. R. Crim. P. 36.

Here, it appears that the Judgment contains a clerical error in that it labels Title 18, Section 371 as “18: 317” instead of “18: 371.” *See, e.g.*, ECF No. 77 at 1 (PSR) (defendant pleaded guilty to violating 18 U.S.C. § 371); ECF No. 14 at 1 (Information) (defendant is charged with violating 18 U.S.C. § 371); ECF No. 15 at 2 (Plea Agreement) (defendant agrees to plead guilty to violating 18 U.S.C. § 371).

Rule 36 permits the Court to correct this error after providing notice that the Court considers appropriate. The defense does not oppose this motion. Accordingly, the Court may correct this error in the judgment.

CONCLUSION

For the above stated reasons, the Court should correct the Judgment in this case at ECF No. 84 to state the “Title and Section” of the offense is “18: 371.”

Respectfully submitted this 12th day of February, 2025.

SUE FAHAMI
Acting United States Attorney

/s/ Jessica Oliva
JESSICA OLIVA
Assistant United States Attorney

IT IS SO ORDERED.
DATED: February 18, 2025


HON. RICHARD F. BOULWARE, II
UNITED STATES JUDGE